THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.16688 of 2006

Date:18.04.2007

Between:

Khaja Raheemuddin.

PETITIONER

AND

The Conservator of Forests and another.

---------RESPONDENTS

ORDER:

Petitioner was granted Saw Mill licence in the year 1976. He was issued a show cause notice, dated 24.05.2005, by the Divisional Forest Officer, Karimnagar, the second respondent herein. It was pointed out that there are discrepancies in the quantities of timber, dealt with by the petitioner under various permits. It was also alleged that there is a difference of quantity of timber between the one, found on physical verification and the one, entered in the Stock Register. It is stated that the petitioner submitted a representation on 13.06.2005, to the second respondent to furnish the copies of certain documents, based on which, the show cause notice was issued. The request is said to have been reiterated in the representations, dated 02.08.2005 and 08.02.2006. The petitioner contends that without considering his request and without giving adequate opportunity to him, the second respondent passed an order, dated 23.02.2006, directing cancellation of the Saw Mill licence. He filed an appeal before the first respondent. The appeal was also dismissed on 04.07.2006. Hence, this writ petition.

On behalf of the respondents, a counter-affidavit is filed denying the allegations made by the petitioner. It is stated that on receipt of a representation, dated 24.05.2005, from the petitioner, they furnished almost all the documents mentioned therein, on 31.08.2005 and the petitioner filed explanation, dated 22.09.2005. As regards the opportunity during the course of enquiry, it is stated that all the officials named by the petitioner were summoned and he was given an opportunity to cross-examine them. It is urged that the order impugned in the writ petition does not suffer from any illegality or infirmity.

Sri K.Vasudeva Reddy, the learned counsel for the petitioner, submits that the petitioner was denied the opportunity to effectively participate in the enquiry at various stages. He contends that the copies of documents, based on which the show cause notice was issued, were not furnished to his client and that the representation seeking permission to engage an Advocate was not disposed of either way. He further submits that the second respondent did not refer to any documents or evidence in support of his conclusion. The learned counsel also contends that though specific grounds, touching on procedural and substantive aspects, were urged before the first respondent, none of them were taken into account.

The learned Government Pleader for Forests, on the other hand, submits that the petitioner was not only furnished the documents that constituted the basis for the proceedings, but also was given full and ample opportunity to defend himself. She contends that the second respondent passed a detailed order, directing cancellation of licence and the first respondent also assigned cogent reasons while upholding the said order.

The substance of the contentions advanced on behalf of the

petitioner is that (a) he was not furnished the documents that were relied upon by the respondents (b) he was not given an adequate opportunity to participate in the proceedings, and (c) the respondents did not state the reasons in support of their conclusions.

The petitioner alleged that the second respondent did not take any steps on his representation, dated 24.05.2005, and subsequent reminders. The relevant paragraph in the affidavit filed in support of the writ petition reads as under:

> I humbly submit that, when the respondents are relying certain documents to prove and to substantiate the charges alleged against me, it is incumbent on their part to furnish all those documents, so as to enable me to face the charges affectively. The supply of those documents should be down by the respondents suo motu, but in the instant case, despite my specific pleading none of those documents were furnished to me. Whereas, exclusively relying upon those documents the impugned proceedings were issued, revoking the licence granted to me. Such an action on the part of the respondents is highly unjustifiable and illegal.

If this contention is true, the impugned proceedings, can, certainly, be treated as vitiated. Before any action is initiated against a citizen, the basis there for must be indicated. Otherwise, he would not be in a position to defend himself effectively.

In their counter-affidavit, the respondents stated that on consideration of the representation made by the petitioner, documents were furnished to him under acknowledgement, dated 31.08.2005. In his reply affidavit, the petitioner admitted that he was supplied with the documents, namely preliminary offence report, statements of permit holders (NTPC & Peddapalli) and the

report of Forest Range Officer (Special Party). However, he said that he was not supplied with the spot panchanama and certain other permits. The record further discloses that on receiving the documents on 31.08.2005, the petitioner submitted his explanation on 22.09.2005. No reference is made to this explanation in the affidavit. Therefore, the averments in the affidavit filed in support of the writ petition, are not correct.

The second grievance of the petitioner is about the denial of opportunity to participate in the enquiry. He stated that though he made a request to the second respondent to permit him to engage an Advocate, no reply was given to it and on 08.02.2006, he was required to cross-examine some witnesses. The petitioner himself filed a copy of his statement recorded on 08.02.2006. In that, he admitted that he has cross-examined Sri V.Purushotham Rao, Forest Range Officer, Special Party. He also admitted that at his instance, the then Forest Range Officer, Jagital and Sub-Divisional Forest Officer, Jagital were summoned for being cross-examined, but he did not cross-examine them since certain documents were not given to him. From this, it is evident that the petitioner was not consistent in his approach.

The petitioner filed W.P.No.22981 of 2005 with a prayer to declare the action of the respondent therein in seizing his Saw Mill as illegal and arbitrary and to direct them to lift the seizure. The writ petition was allowed on 04.01.2006. It was pointed out that though the petitioner had submitted an explanation on 22.08.2005, the second respondent herein did not pass any orders. On behalf of the respondents, W.A.No.286 of 2006 was filed. During the course of hearing of the Writ Appeal, the respondent undertook to pass orders in pursuance of the show cause notice within two weeks. The Division Bench dismissed the writ appeal, through the

order, dated 21.03.206, with an observation that the second respondent herein shall pass final orders within two weeks in furtherance of the show cause notice, dated 24.05.2005 and till then, the petitioner shall not operate the Saw Mill. It was also directed that in case the final orders are not passed, it shall be open to the petitioner to operate the Saw Mill.

In case the petitioner was of the view that he was not furnished the relevant documents or that the enquiry that had taken place up to that place was defective in any manner, he ought to have brought the same, to the notice of the Division Bench and sought necessary directions in that regard. No such grievance was made out. The second respondent, in turn, passed final orders within the time stipulated by the Division Bench. Therefore, the grievance pointed out by the petitioner as regards the furnishing of copies of documents or giving of opportunity to participate in the enquiry cannot be sustained.

The third ground urged by the petitioner is about the absence of reasons in support of the orders passed by respondents 1 and 2.

In the respective orders passed by them, the respondents have referred to the facts in detail and have virtually reproduced the entire show cause notice. The explanation submitted by the petitioner on 22.09.2005 was also referred to. From a perusal of the copy of the explanation, it is evident that the petitioner disowned the permits mentioned in appendix-I. The explanation is totally silent as to appendix-II. Except a bald denial, the petitioner did not put forward any independent contention. The necessity to undertake extensive discussion about the defence would arise, if only, the person sought to be proceeded against puts forward his own case or places any other material. All the same, the

respondents have referred to the relevant facts and arrived at a conclusion that the petitioner had violated not only the provision of the Andhra Pradesh Forest Act, but also the Andhra Pradesh Saw Mill Regulation Rules. The orders to be passed by the quasi-judicial authorities cannot be compared to the judgments rendered by the regular Courts.

This Court cannot sit as an appellate authority over the conclusions arrived at by the quasi-judicial authorities. In a writ petition filed under Article 226 of the Constitution of India, the Court would only examine and verify the decision making process and not the decision itself. Even where a different conclusion is possible on merits, this Court cannot act as an appellate authority. The record in the instant case discloses that no procedural irregularity has taken place and the orders impugned in the writ petition do not warrant interference.

Hence, the writ petition is dismissed. There shall be no order as to costs.

18.04.2007
Note: L.R. copy to be marked.
kdl

-